

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>UNITED STATES OF AMERICA,</b>	)	<b>CASE NO. 8:04CR264</b>
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>TENTATIVE FINDINGS</b>
	)	
<b>JULIO SANTIAGO,</b>	)	
	)	
<b>Defendant.</b>	)	

The Court has received the Presentence Investigation Report ("PSR") and the parties' objections thereto (Filing Nos. 113, 114). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

Both parties object to the upward adjustment in ¶ 47 pursuant to U.S.S.G. § 3C1.1 for obstruction of justice because the adjustment was not contemplated in the plea agreement. The Defendant also objects to ¶¶ 10, 11, 12, 13, 18, 37, 38 and 40 insofar as information in those paragraphs supports the obstruction of justice issue. The Court tentatively finds that the plea agreement should be honored.

**IT IS ORDERED:**

1. The Court's tentative findings are that the government's objections to the Presentence Investigation Report (Filing No. 113) are granted;
2. The Court's tentative findings are that the Defendant's objections to the Presentence Investigation Report (Filing No. 114) are granted in part and denied in part as follows:

- a. The objection to ¶ 47 is granted;
- b. The objections to ¶¶ 10, 11, 12, 13, 18, 37 and 38 are denied;
3. Otherwise the Court's tentative findings are that the Presentence Investigation Report is correct in all respects;
4. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and ©) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;
5. Absent submission of the information required by paragraph 4 of this Order, my tentative findings may become final; and
6. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 24<sup>th</sup> day of July, 2006.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge